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8 **UNITED STATES BANKRUPTCY COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**

10 In re: } CASE NO. 22-20021-C-7  
11 WILLIAM RAY POE and } D.C. NO BHS-1  
12 MARIA E. MORAES, }  
13 } **ORDER APPROVING  
14 Debtors. } VERIFIED APPLICATION BY  
EMPLOYMENT OF COUNSEL**

15 An Application to employ counsel for the Chapter 7 Trustee pursuant to U.S.C. §  
16 327 has been made. Based upon the application, the record, and the verified statement  
17 required by Federal Rule of Bankruptcy Procedure 2014(a), it appears that the proposed  
18 attorney is eligible to be employed, with an effective date of March 16, 2023.

19 IT IS ORDERED that the trustee is authorized to retain the Law Office of Barry H.  
20 Spitzer subject to the following reasonable terms and conditions pursuant to 11 U.S.C. §  
21 328(a):

22 1. No compensation is permitted except upon court order following application  
23 pursuant to 11 U.S.C. § 330(a).

24 2. Compensation will be at the "lodestar rate" for professional services  
25 applicable at the time that services are rendered in accordance with the Ninth Circuit  
26 decision in In re Manoa Fin. Co., 853 F.2d 687 (9th Cir. 1988). Guidance on evidence  
27 appropriate to support applications for compensation appears in In re Gianulias, 98 B.R.  
28 27 (Bankr. E.D. Cal.), aff'd, 111 B.R. 867 (E.D. Cal. 1989).

3. No hourly rate referred to in the application papers is approved unless unambiguously so stated in this order or in a subsequent order of this court.

4. All funds received by counsel in connection with this matter, regardless of whether they are denominated a retainer or are said to be nonrefundable, are deemed to be an advance payment of fees and to be property of the estate except to the extent that counsel demonstrates, pursuant to the statement required by 11 U.S.C. § 329 filed before ten days after issuance of this order, that such funds were received as the reasonable value of actual prepetition services.

5. Funds that are deemed to constitute an advance payment of fees shall be maintained in a trust account maintained in an authorized depository, which account may be either a separate interest-bearing account or an attorney's trust account containing commingled funds. Withdrawals are permitted only after approval of an application after the court issues an order authorizing disbursement of a specific amount.

This court is satisfied under the circumstances that no actual conflict will impede the proposed representation. However, this court is extremely skeptical how debtors who are represented by a bankruptcy counsel who is herself a chapter 7 trustee could be allowed to omit such an obvious asset as the cause of action arising from the Camp Fire. Moreover, cross-representation such that chapter 7 trustees wind up conflicting with each other easily create an appearance of impropriety in the eyes of the public.

Dated: March 22, 2023



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United States Bankruptcy Judge